

Gitelman, Steve (Contractor)

From: FOIA, Electronic
Sent: Friday, January 25, 2019 10:29 AM
To: 56700-62296529@requests.muckrock.com
Subject: RE: Freedom of Information Act Request #DOC-OS-2018-001705

Dear Sir/Madame:

I am writing in response to your inquiry below regarding the status of the Department of Commerce FOIA Request DOC-OS-2018-001705.

We are currently in the process of collecting responsive records for this request. As you may know, the Department of Commerce is comprised of many bureaus, and each bureau that might have responsive records has been tasked with conducting its own internal search. When all of these searches have been completed, and the collected records reviewed for responsiveness and privilege and readied for disclosure, we will notify you.

We are not in a position at the moment to estimate any specific timeline for the completion of our response.

We thank you for your patience and are happy to answer any additional questions you may have at any time.

Sincerely,

Steven Gitelman
FOIA/PA Analyst (Contractor)
U.S. Department of Commerce
Office of Privacy and Open Government
202-482-8294
Sgitelman1@doc.gov

From: 56700-62296529@requests.muckrock.com <56700-62296529@requests.muckrock.com>
Sent: Wednesday, January 23, 2019 5:02 AM
To: FOIA, Electronic <EFOIA@doc.gov>
Subject: RE: Freedom of Information Act Request #DOC-OS-2018-001705

Department of Commerce
FOIA Office
14th and Constitution Avenue, N.W.
Washington, DC 20230

January 23, 2019

This is a follow up to request number DOC-OS-2018-001705:

To Whom It May Concern:

I wanted to follow up on the following Freedom of Information Act request, copied below, and originally submitted on June 24, 2018. Please let me know when I can expect to receive a response. You had assigned it reference number #DOC-OS-2018-001705.

Thanks for your help, and let me know if further clarification is needed.

Filed via MuckRock.com

E-mail (Preferred): 56700-62296529@requests.muckrock.com

Upload documents directly: https://www.muckrock.com/accounts/agency_login/us-department-of-commerce-65/sf-716-2001-2017-department-of-commerce-56700/?uuid-login=40683c93-94fa-4fb6-9d73-81fb53a085d9&email=EFOIA%40doc.gov#agency-reply

Is this email coming to the wrong contact? Something else wrong? Use the above link to let us know.

For mailed responses, please address (see note):

MuckRock News

DEPT MR 56700

411A Highland Ave

Somerville, MA 02144-2516

PLEASE NOTE: This request is not filed by a MuckRock staff member, but is being sent through MuckRock by the above in order to better track, share, and manage public records requests. Also note that improperly addressed (i.e., with the requester's name rather than "MuckRock News" and the department number) requests might be returned as undeliverable.

On Aug. 24, 2018:

The FOIA request DOC-OS-2018-001705 has had its Tracking Number changed to DOC-OS-2018-001705. This is normally due to the request being transferred to another agency (for example, EPA to Dept. of Commerce) or to a sub-agency to process it. Additional details for this request are as follows:

- * Old Tracking Number: DOC-OS-2018-001705
- * New Tracking Number: DOC-OS-2018-001705
- * Requester Name: Emma Best
- * Date Submitted: 07/05/2018
- * Long Description: Copies of all drafted, submitted or received SF-716 forms (<https://www.archives.gov/files/isoo/security-forms/sf716.pdf>) produced from January 1, 2001 through December 31, 2017. SF-716 forms are filed annually and may also be identified as Agency Security Classification Costs Estimates.

On Aug. 10, 2018:

The FOIA request DOC-OS-2018-001705 has had its Tracking Number changed to DOC-OS-2018-001705. This is normally due to the request being transferred to another agency (for example, EPA to Dept. of Commerce) or to a sub-agency to process it. Additional details for this request are as follows:

- * Old Tracking Number: DOC-OS-2018-001705
- * New Tracking Number: DOC-OS-2018-001705
- * Requester Name: Emma Best
- * Date Submitted: 07/05/2018
- * Long Description: Copies of all drafted, submitted or received SF-716 forms (<https://www.archives.gov/files/isoo/security-forms/sf716.pdf>) produced from January 1, 2001 through December 31, 2017. SF-716 forms are filed annually and may also be identified as Agency Security Classification Costs Estimates.

On July 9, 2018:

Your request for Fee Waiver for the FOIA request DOC-OS-2018-001705 has been fully granted. Additional details for this request are as follows:

* Request Created on: 07/05/2018

* Request Description: Copies of all drafted, submitted or received SF-716 forms

(<https://www.archives.gov/files/isoo/security-forms/sf716.pdf>) produced from January 1, 2001 through December 31, 2017. SF-716 forms are filed annually and may also be identified as Agency Security Classification Costs Estimates.

* Fee Waiver Original Justification: I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience. Case law states that "proof of the ability to disseminate the released information to a broad cross-section of the public is not required." *Judicial Watch, Inc. v. Dep't of Justice*, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). Courts have held that "qualified because it also had 'firm' plans to 'publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media. Additionally, courts have held that the news media status "focuses on the nature of the requester, not its request. The provision requires that the request be 'made by' a representative of the news media. Id. § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request are moot for the purposes of determining the fee category. As my primary purpose is to inform about government activities by reporting on it and making the raw data available, I request that fees be waived.

* Fee Waiver Disposition Reason: N/A

On July 2, 2018:

This message is to confirm your request submission to the FOIAonline application: View Request. Request information is as follows: (<https://foiaonline.regulations.gov:443/foia/action/public/view/request?objectId=090004d2819b3a7e>)

* Tracking Number: DOC-OS-2018-001705

* Requester Name: Emma Best

* Date Submitted: 07/02/2018

* Request Status: Submitted

* Description: Copies of all drafted, submitted or received SF-716 forms (<https://www.archives.gov/files/isoo/security-forms/sf716.pdf>) produced from January 1, 2001 through December 31, 2017. SF-716 forms are filed annually and may also be identified as Agency Security Classification Costs Estimates.

On June 24, 2018:

To Whom It May Concern:

Pursuant to the Freedom of Information Act, I hereby request the following records:

Copies of all drafted, submitted or received SF-716 forms (<https://www.archives.gov/files/isoo/security-forms/sf716.pdf>) produced from January 1, 2001 through December 31, 2017. SF-716 forms are filed annually and may also be identified as Agency Security Classification Costs Estimates.

I am a member of the news media and request classification as such. I have previously written about the government and its activities, with some reaching over 100,000 readers. As such, as I have a reasonable expectation of publication and my editorial and writing skills are well established. In addition, I discuss and comment on the files online and make them available through non-profits such as the Internet Archive and MuckRock, disseminating them to a large audience.

Case law states that "proof of the ability to disseminate the released information to a broad cross- section of the public is not required." *Judicial Watch, Inc. v. Dep't of Justice*, 365 F.3d 1108, 1126 (D.C. Cir. 2004); see *Carney v. U.S. Dep't of Justice*, 19 F.3d 807, 814-15 (2d Cir. 1994). Courts have held that "qualified because it also had "firm" plans to "publish a number of . . . 'document sets'" concerning United States foreign and national security policy." Under this criteria, as well, I qualify as a member of the news media.

Additionally, courts have held that the news media status "focuses on the nature of the requester, not its request. The provision requires that the request be "made by" a representative of the news media. Id. § 552(a)(4)(A)(ii)(II). A newspaper reporter, for example, is a representative of the news media regardless of how much interest there is in the story for which he or she is requesting information." As such, the details of the request are moot for the purposes of determining the fee category.

As my primary purpose is to inform about government activities by reporting on it and making the raw data available, I request that fees be waived.

The requested documents will be made available to the general public, and this request is not being made for commercial purposes.

In the event that there are fees, I would be grateful if you would inform me of the total charges in advance of fulfilling my request. I would prefer the request filled electronically, by e-mail attachment if available or CD-ROM if not.

Thank you in advance for your anticipated cooperation in this matter. I look forward to receiving your response to this request within 20 business days, as the statute requires.

Sincerely,

Emma Best

Filed via MuckRock.com

E-mail (Preferred): 56700-62296529@requests.muckrock.com

Upload documents directly: https://www.muckrock.com/accounts/agency_login/us-department-of-commerce-65/sf-716-2001-2017-department-of-commerce-56700/?uuid-login=40683c93-94fa-4fb6-9d73-81fb53a085d9&email=EFOIA%40doc.gov#agency-reply

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